



**AGENDA  
BOARD OF ADJUSTMENTS AND APPEALS  
Regular Session  
TOWN OF CAMP VERDE  
473 S. MAIN STREET, CAMP VERDE, AZ 86322  
TUESDAY, SEPTEMBER 13, 2016  
3:00 PM  
COUNCIL CHAMBERS**

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of the Board so requests.
  - a. **Approval of Minutes**  
May 10, 2016 – Regular Session
  - b. **Set Next Meeting, Date and Time**  
As Needed
5. **Call to the Public for items not on the Agenda**  
*Residents are encouraged to comment about any matter not included on the agenda. State law prevents the Board from taking any action on items not on the agenda, except to set them for Consideration at a future date.*
6. **Presentation and Discussion on Non-Conforming Uses.** Staff Resource: Community Development Director, Michael Jenkins

**There Will Be No Public Input On The Following Items:**

7. **Current Events:** (Individual members of the Board may provide brief summaries of current events and activities. These summaries are strictly for the purpose of informing the public of such events and activities. The Board will have no discussion, consideration, or take any action on any such item, except that an individual Board member may request an item be placed on a future agenda.)
8. **Adjournment**

**Please note:** Staff makes every attempt to provide a complete agenda packet for public review. However, it is not always possible to include all information in the packet. You are encouraged to check with Staff prior to a meeting for copies of supporting documentation that may have been unavailable at the time agenda packets were prepared.

Posted by:

Date/Time:

8/29/16 10:00am

*Note: Pursuant to A.R.S. §38-431.03A.2 and A.3, the Board of Adjustments & Appeals may vote to go into Executive Session for purposes of consultation for legal advice with the Town Attorney on any matter listed on the Agenda, or discussion of records exempt by law from public inspection associated with an agenda item.*

**The Town of Camp Verde Council Chambers is accessible to the handicapped. Those with special accessibility or accommodation needs, such as large typeface print, may request these at the Office of the Town Clerk.**

**DRAFT MINUTES**  
**BOARD OF ADJUSTMENTS AND APPEALS**  
**Regular Session**  
**TOWN OF CAMP VERDE**  
**473 S. MAIN STREET, CAMP VERDE, AZ 86322**  
**TUESDAY, MAY 10, 2016**  
**3:00 P.M.**  
**COUNCIL CHAMBERS**

**1. Call to Order**

Vice Chairman Davis called the meeting to order at 3:00 p.m.

**2. Roll Call**

Present: Vice Chairman BJ Davis, Board Members Greg Blue, Buck Buchanan, and Murray Lichty.

Absent: Chairman Jim Binick and Board Members Ben Bassous, and Doug Stevens.

Also Present: Community Development Director Michael Jenkins, Assistant Planner Kendall Welch, and Recording Secretary Janet E. Turner.

**3. Pledge of Allegiance**

The pledge was not recited.

**4. Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of the Board so requests.

**a. Approval of Minutes**

February 9, 2016 – Regular Session

**b. Set Next Meeting, Date and Time**

As Needed

Assistant Planner Kendall Welch commented that the Board typically meets once a quarter unless there is an issue at hand.

On motion by Board Member Blue, seconded by Board Member Lichty, the Board unanimously voted to approve the Consent Agenda as presented.

**5. Call to the Public for Items not on the Agenda**

*Residents are encouraged to comment about any matter not included on the agenda. State law prevents the Board from taking any action on items not on the agenda, except to set them for consideration at a future date.*

There were no comments from the public.

**6. Presentation and Discussion on Reed vs. Town of Gilbert and potential impacts to Section 404 – Signs, of the current Planning and Zoning Ordinance.** Staff Resource: Community Development Director Michael Jenkins.

Community Development Director Michael Jenkins gave a brief overview of the decision handed down by the Supreme Court in June of 2015 regarding the Reed vs. Town of Gilbert case. Mr. Reed was a minister of a church and the case involved signage for a church, the Town's sign codes, and freedom of speech. The Supreme Court set up tests and determined that freedom of speech was being violated by the Town of Gilbert.

Fighting the case cost the Town of Gilbert a lot of money. The Town of Gilbert had strict sign codes which required very careful reading to ascertain what the sign code really meant and the contents of each sign had to be read to determine which category it belonged in, and the governing code was dependent on what the sign was for. The Town of Gilbert only permitted the church—which did not have a building of its own but met in different locations and would put up signage to provide the public with church services information and directions—to place their signage only 12 hours prior to a service/event and the church had to remove them within one hour after the event ended. The Supreme Court interpreted the Town of Gilbert's codes as a violation of freedom of speech.

Mr. Jenkins pointed out that this ruling impacts all municipalities nationwide. He indicated he has attended several seminars to hear what other planners have to say about the issue, and mentioned that the Arizona League of Cities and Towns is currently drafting a sign code model for communities. Typically within the law when a number of communities adopt a draft model, if a case is subsequently brought to court the court will rely on that, i.e., it is not one incident but many.

Mr. Jenkins stated that Flagstaff had just finished the revisions of their sign codes and that he had forwarded it to the Town of Camp Verde's attorney for guidance on how to proceed in rewriting the sign code for the Town of Camp Verde. He stated he was advising the Board of that today and explained that if anyone is aggrieved with how the Community Development Director interprets the codes, there has to be a first-step remedy provided within the Town's codes, that way it does not immediately go to the Superior Court as a lawsuit. If aggrieved, the individual(s) can go to the Board of Adjustments and Appeals and there will be three choices: (1) Hold with the Community Development Director's interpretation; (2) deem partial parts of it as correct; or (3) make their own interpretation. The Planning and Zoning Commission will be first to review the draft sign ordinance and hopefully with good guidance from the attorney and other's model of codes, the Town of Camp Verde will have plenty of guidance going forward.

Ms. Welch pointed out that in the Reed vs. Town of Gilbert case, not only were the church's signs regulated on content but also on size which limited their impact. Mr. Jenkins added that everyone is equal meaning that everyone should be treated the same. Vice Chairman Davis commented, "One size fits all – retail, professional businesses, schools, churches, all get the same deal." Board Member Blue inquired about banners, would those also be addressed? And he vaguely remembered hadn't the Town charged a fee? Mr. Jenkins replied, "Right. Sandwich board signs, too." Board Member Blue noted they are all over now, but back then it was just in one area and that the rewrite should have certain definitions.

There was a brief discussion regarding the requirement for a commercially licensed person to raise signage and how several signs had fallen down such as McDonald's, Circle K, and Dairy Queen. Mr. Jenkins clarified that that was a safety issue and was excluded from the Reed vs. Town of Gilbert ruling, but the requirements comes out of the Arizona Registrar Of Contractors and they provide a clear-cut list of who and who cannot raise signs. Board Member Blue also remembered permits being required and a sticker being placed on signs but had observed the Town of Camp Verde had been quite lax in enforcing that. Mr. Jenkins explained that in order to preserve the Town's funds the Town's attorney had advised to take a lax approach citing the Reed vs. Town of Gilbert case.

Board Member Blue then inquired about the increasing popularity of digital signs; wasn't there something in the code regarding movement in signs? Ms. Welch clarified that the current sign code prohibits signs with blinking and flashing, and that the Planning and Zoning Division has seen an increase in requests for them. She stated a general updating is needed in the sign

**7. Current Events.** (Individual members of the Board may provide brief summaries of current events and activities. These summaries are strictly for the purpose of informing the public of such events and activities. The Board will have no discussion, consideration, or take any action on any such item, except that an individual Board member may request an item be placed on a future agenda.)

**8. Adjournment.**

**Janet E. Turner, Recording Secretary**

## **SECTION 101 - PURPOSE**

This Zoning Ordinance and related supporting materials are intended to implement the adopted, comprehensive, long-term plan of development for the incorporated areas within the jurisdiction of Camp Verde, Arizona, the Town of Camp Verde General Plan, as provided in Title 9, A.R.S. § 9-462.01 of the Arizona Revised Statutes as may be amended; in order to conserve and promote the public health, safety, convenience and general welfare, by guiding and accomplishing a coordinated and harmonious town development for future growth.

The Planning and Zoning Ordinance is focused on the Town's future vision, rules for preserving or enhancing its quality of life, and the means by which these aims are accomplished.

### **General Plan Goals/Objectives**

Camp Verde's broad planning principles establish the land use policy framework for directing and preserving the Town's orderly development.

### **Zoning, Subdivision and Engineering Design and Construction Standards**

Regulatory provisions are meant to be consistent with the adopted General Plan.

### **Administration and Procedures**

An open, fair and equitable process is established herein to afford citizens full protection of rights to use and enjoy real property and opportunity to participate in the Town's land use decision-making.

## **SECTION 102 - APPLICABILITY AND EXEMPTIONS**

This Zoning Ordinance constitutes the exercise of municipal powers enacted by the State of Arizona for providing direction to the jurisdiction's planning and orderly development.

### **A. Applicability and Exemptions**

This Zoning Ordinance applies to all buildings, structures, lands and uses over which the Town of Camp Verde has jurisdiction under the constitution and law(s) of the State of Arizona and of the United States.

### **B. Nonconforming Uses and Structures**

The purpose of this section is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of this Zoning Ordinance or prior to any amendment to this Zoning Ordinance that otherwise renders such use unlawful. A nonconforming use or structure that was recognized prior to the adoption of this Zoning Ordinance shall continue to operate under the provision of law under which the nonconforming structure or use was recognized so long as the nonconforming use or structure is not in violation of such provision of prior law and otherwise complies with law, the adoption of this Zoning Ordinance notwithstanding. Nothing in this chapter prohibits the voluntary compliance with any future ordinance, regulation, or incentive.

As herein defined, a nonconforming use is a use that was lawfully established but that no longer complies with the use regulations applicable to the zoning district in which the property is located.

1. Continuation:

The lawful use of any building, structure, or land existing at the time of the effective date of this Zoning Ordinance may be continued, although such use does not conform with the current provisions hereof, subject to verification as set forth in Section 102.B.5, below, where the use or structure was lawfully established prior to and has been continued under one of the following circumstances:

- a. the date upon which the Yavapai County Zoning Ordinance became effective, September 20, 1970; or
- b. assumption of municipal zoning authority by the Town of Camp Verde upon its incorporation; or
- c. an amendment to zoning provisions or other development regulations to which the use or structure, thereafter, does not conform.
- d. However, no such use shall be continued that constitutes a threat to the health, safety or welfare of the public.

2. Abandonment:

In the event that the nonconforming use or structure has been discontinued for a period of one year, such use shall be deemed to have been abandoned and any subsequent use shall conform with the provisions of the Town's most current ordinances, including zoning ordinances otherwise exempted pursuant to this Section 102 B.

3. Repair or Restoration:

- a. Nothing in this Zoning Ordinance shall prevent the reasonable maintenance, repair, and continued use of a nonconforming structure or part thereof rendered necessary by wear and tear, deterioration or depreciation.
- b. Any nonconforming structure or a conforming building containing a nonconforming use that is damaged or destroyed by casualty or Act of God may be restored within a twelve month period without loss of its nonconforming status.

4. Change or Modification of Nonconforming Uses or Structures:

A nonconforming use shall not be changed to a different nonconforming use.

- a. If a change in use is from an impermissible to a permissible use, but full conformance with current standards cannot be achieved, then the change may be allowed, subject to the Board of Adjustment and Appeals finding that full compliance is not reasonably possible.
- b. A nonconforming use may not expand. Expansion is defined to include a geographic increase of the actual use, as well as an increase in volume or intensity, with the exception that a property owner may apply for a determination, pursuant to Section 102-B.5, that a minor increase may be approved based on findings that the proposed expansion will constitute an improvement to the subject property with no detriment to neighboring properties, in the following instances:

- 1) Replacement of a nonconforming mobile home with a certified manufactured home that neither decreases the existing nonconforming setback distance nor creates any further nonconforming conditions and maintains an interior side yard setback of not less than three feet (3') to the property line; or
  - 2) Building extension or extensions of a nonconforming single-family, site-built residence that neither decreases the existing nonconforming setback distance nor creates any further nonconforming condition and maintains an interior side yard setback of not less than three feet (3') to the property line.
- c. Nonconforming accessory uses, structures or appurtenant fixtures shall not be altered, reconstructed, or replaced without a valid permit issued by the Community Development Department that specifies compliance with the provisions of this Zoning Ordinance.
- 1) Such uses, structures or fixtures located on a development site for which a valid permit is obtained or on a parcel for which a zoning map change or Use Permit is approved, shall, likewise, be brought into compliance.
  - 2) Owners of properties with such nonconforming accessory conditions when seeking a valid permit, zoning map change or Use Permit for which full compliance cannot reasonably be achieved may seek approval from the Board of Adjustment and Appeals upon findings and stipulations, as appropriate, to assure that partial compliance will constitute an improvement of the substandard conditions.
    - a) Nonconforming parking: Where automobile parking space is provided and maintained in connection with any existing main building or use at the time this Zoning Ordinance became effective and is insufficient to meet the requirements for the use with which it is associated, or where no such parking has been provided, then this building or structure may be expanded or enlarged only if automobile parking spaces are provided for an enlargement, extension or addition to the standards set forth in these regulations.

No existing parking may be counted as meeting this requirement unless it exceeds the requirements for the original building and then only the excess portion may be counted.
    - b) Nonconforming signs are not required to be brought into conformance with the provisions of this Zoning Ordinance when development on a site for which a zoning map change or Use Permit is obtained does not result in an increase in the number of sign structures or more than 100 percent of the sign area on the site.
    - c) Nonconforming outdoor lighting shall be extinguished between 12:00a.m. and sunrise by an automatic shutoff device. No nonconforming outdoor lighting fixture shall be modified or replaced, unless the fixture thereafter conforms to the provisions of this Zoning Ordinance, except for identical bulb replacement of mercury vapor light fixtures (prohibited after January 1, 2005) in outdoor lighting systems installed prior to 1950.

- d) Nonconforming and conforming uses and structures may be included on the same lot within limits of the District regulations for conforming uses and structures. Nonconforming uses or structures are not transferable to other properties or parcels not covered by original nonconforming use or structure.

5. Verification of an Existing Nonconforming Use:

The use of the premises must adapt the land for the use and employ the premises for the nonconforming purposes. The use need not be in actual operation when the land use ordinance that changes the use from legal conforming to legal nonconforming takes or took effect, but it must have been used for that purpose within the twelve month period preceding the change; however, the casual, intermittent, temporary or illegal use of land or building shall not be sufficient to establish the existence of a nonconforming use. Nothing in this paragraph shall be construed to mean that any use is exempt from regulations enacted to protect public health, safety or welfare.

- a. Any property owner may apply for determination of a nonconforming use by means of the procedures listed below:
  - 1) Application for designation as a nonconforming use shall be submitted in writing to the Community Development Department, indicating, at a minimum, the following:
    - Name, address and telephone number of the property owner.
    - Address and assessor's number of the subject property.
    - The nature of the nonconforming use or structure.
    - Any documentation to support the request.
    - An application fee as specified in the current Community Development Department Fee Schedule.
  - 2) Two or more of the following shall be submitted to consider the verification of an existing nonconforming use:
    - Records of use of land or structures in the Town Community Development Department or other government agency with sufficient information to show that the use predates applicable zoning;
    - Similar, credible evidence from utility companies, business or private records;
    - Affidavit(s) from individual(s) testifying that the property was and has been continuously used for a purpose that predates adoption of the zoning in question.
- b. Upon receipt of a complete application, the Community Development Director shall send notice of the pending request to each owner of real property, according to the Yavapai County Assessor's records, within three hundred feet of the proposed nonconforming use.
- c. The Community Development Director will review the evidence concerning the application as shall be presented by the applicant or any other interested party. Such evidence shall be written. The Community Development Director will render a decision and present findings, through a



formal written Notice of Action to the applicant and other interested parties. The decision shall be published in a local paper of general circulation, and shall be sent to each owner of real property, according to the Yavapai County Assessor's records, within three hundred feet of the proposed nonconforming use.

- d. Any person aggrieved by the decision of the Community Development Director may request an appeal to the Board of Adjustment and Appeals. Appeals shall be made as prescribed in Part Six, Section 600-B. The appeal time requirements will start from the date of publication of the decision.

## **SECTION 103 - DEFINITION OF TERMS**

For the purposes of this Zoning Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. Words, phrases, and terms not defined in this Zoning Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not permissive; the word "may" is permissive and not mandatory. Words used in the present tense include the future tense; words used in the future tense include the present tense. The word "person" includes individuals, partnerships, corporations, clubs, and associations and other forms of business enterprise. The following words or terms when applied to this Zoning Ordinance shall carry full force when used interchangeably; lot, plot, parcel, or premises; used, arranged, occupied, or maintained; sold or dispensed; construct, reconstruct, erect, place, or alter (structurally or otherwise), If more than one provision, standard, or requirement of any chapter of this Zoning Ordinance applies in all instances the most restrictive, provision, standard or requirement shall control.

### DEFINED TERMS, PHRASES AND WORDS:

**ABANDONMENT:** The discontinuation of use for a period of one year.

**ACCESSORY USE:** A use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal use.

**ADJACENT:** Adjoining or across a road from each other.

**ADULT CARE CENTER:** An establishment enrolling four or more adults where fees or other forms of compensation for the temporary care of the adults are charged, and which is licensed and approved to operate by the State.

**AGRICULTURE:** The production, keeping or maintenance, for sale, lease or personal use, of plants or animals useful to man, including the breeding and grazing of any or all of such animals; or lands devoted to a soil conservation or forestry management program.